Ms. Katherine Hart, Chair
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670

April 1, 2010

Re: Support and appreciation for the Sacramento/San Joaquin Delta Methylmercury TMDL Stakeholder Process

Dear Chair Hart and Board Members:

We, the undersigned, are writing this letter to express our appreciation for the efforts made by the Regional Water Board and its staff to improve the process that has been used in the development of the Sacramento-San Joaquin Delta Mercury TMDL and associated Basin Plan Amendment (BPA).

The undersigned organizations have been involved in the development of the BPA for many years and have advocated for a robust stakeholder process and a BPA that recognizes the need for sound science and an equitable, feasible approach in regulating mercury loadings to the Delta.

In April 2008, the Regional Water Board directed staff to work through a stakeholder process to address numerous concerns related to the BPA. Since that time, a diverse group of stakeholders—representatives of wastewater and stormwater agencies, non-profit organizations, wetland managers, agricultural representatives, the Regional Water Board's Executive Officer and staff, and USEPA staff—have worked diligently to develop the current version of the BPA and supporting documents that recognizes the need for sound science and an equitable, feasible approach in regulating mercury loadings in the Delta.

In April 2008, a group of stakeholders sent a letter to the Regional Water Board expressing various concerns regarding the overall process and development of the draft BPA, inattention to those concerns, and a number of significant technical and implementation issues. The stakeholders signatory to that letter requested that a modified approach be used in the BPA that included six key elements:

1. Establish the means to fund methylmercury characterization and control studies.
2. Establish an appropriate fish tissue objective to protect beneficial uses now and in the future.
3. Recognize the current limitations in our ability to control methylmercury from various identified sources.
4. Create early incentives for the removal and control of total mercury from the Delta and upstream watersheds.
5. Eliminate the water concentration "goal" and develop methylmercury allocations at the end of Phase 1 based on the outcome of characterization and control studies.
6. Require the development and implementation of remedial actions by the State of California to reduce the contribution of legacy mercury in the watershed by at least half, as part of a comprehensive effort to achieve the TMDL.

The stakeholder process has been rigorous, with 14 facilitated Stakeholder meetings and numerous additional workgroup meetings over the course of the past year and half, to work through numerous complex issues. As a result of this process, changes have been made to the BPA addressing many--although not all--of the previous concerns. Three critical accomplishments of the Stakeholder group that will help to implement the BPA include:

- Establishment of a clear set of fundamental principles to guide the specific language that was developed for the BPA and related documents;
- Recognition that the BPA required a flexible, phased approach with an adaptive management framework that encourages reasonable future requirements and actions; and
- Development of near-term actions including Pollutant Minimization Programs, Control Studies, an Exposure Reduction Program, and requirements to perform reasonable, feasible actions as soon as possible.

We believe these elements will help with successful early implementation efforts of the TMDL and future implementation of the Delta Mercury Control Program.

As participants in the Stakeholder group, we would like to express our appreciation of the Regional Water Board's commitment to the stakeholder process, and of the individual efforts of their management and staff who have worked diligently with us for the past two years. Although each of the undersigned organizations may have remaining concerns with certain aspects of the proposed BPA, we are in general agreement with the principles and the key provisions that are included in the current version of the BPA and related documents, and we are committed to working collaboratively with your staff and other stakeholders in the coming years.

We urge the Regional Water Board to support your staff in continuing to work with the Stakeholder group during Phase 1 of the Delta Mercury Control Program, and to base your conclusions, recommendations, and decisions on sound scientific evidence and the reasonable protection of beneficial uses, as required under the Water Code. Additionally, we urge you to help seek funding that will assist the Stakeholder group to work together in the future. We look forward to improving upon this collaborative stakeholder model for developing future TMDLs in the region.

Sincerely,

Marty Hanneman, Director
Department of Utilities
City of Sacramento

Jeff Willett, P.E., Engr. Man./Asst. Dir.
Department of Municipal Utilities
City of Stockton

Michael L. Peterson, P.E., Principal Civil Engr.
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Paul Buttner, Envir. Affairs Manager
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David Tompkins, P.E.
Utilities Director
City of Vacaville

Cc: Pamela Creedon, Executive Officer
Jerry Bruns, Chief, Standards, Policies, and Special Studies Section
Patrick Morris, Senior Engineer, Mercury TMDL Unit